
Chair Orr called the meeting to order at 1:45 p.m., at the Sheraton Hotel in Tacoma and welcomed the attendees. He introduced the following attendees:

MEMBERS PRESENT:

COMMISSIONER GEORGE ORR, CHAIR;
COMMISSIONER CURTIS LUDWIG, VICE CHAIR;
COMMISSIONER LIZ McLAUGHLIN; (participating via telephone)
COMMISSIONER MARSHALL FORREST; and
SENATOR SHIRLEY WINSLEY;

OTHERS PRESENT:

RICK DAY, Director;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
ROBERT BERG, Deputy Director, Operations;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
JERRY ACKERMAN, Assistant Attorney General; and
SHIRLEY CORBETT, Executive Assistant

1. EXECUTIVE SESSION TO DISCUSS POTENTIAL LITIGATION

Chair Orr called for a thirty-minute executive session. Chair Orr reconvened the open public meeting at 2:15 p.m.

2. FINAL CONSIDERATION - FREE SPIN / FREE DRAW PRODUCT:

Chair Orr reported that the Commissioners had just received more information on the Free Spin product, which they would attempt to peruse this evening. Further discussion on this agenda item was postponed until Thursday morning.

3. DIRECTOR'S REPORT and REVIEW OF AGENDA:

Rick Day, Director, explained the new experimental agenda process. He also noted that a new seating arrangement was being tested to better accommodate attendees. He emphasized the agenda and room set-up are experimental and asked the Commissioners to express their preferences or suggestions for improvements. Director Day provided reports on:

A) Other States' Survey. **Director Day** noted this started with Commissioner Parker's request for information as to whether there is a way to look at information from other states and see whether there is some way to determine if there was a saturation point in the number of card rooms. As staff moved forward, there seemed to be a lot of other questions. He did not go through all the details because a substantial amount of information was collected from 13 states and British Columbia. The information has been formatted into graphs and provided to the Commissioners. The graphs are summaries that provide an overview of what games are legal, the types of gambling, and the jurisdictions studied.

Another graph provided house-banked card room comparisons. The closest similar system to Washington was North Dakota, however, it is charitable gambling. They have tables and their locations are smaller, which makes it difficult to compare. **Director Day** believed the comparison might not be close enough to make a lot of judgments from the number of licensees and tables.

The Gambling Agency Organization graph listed the different structures in summary fashion. The most common governing body is a Commission or a Control Board. In most states, it appears they continue to separate regulatory issues between the gambling commission, horse racing commission, and a lottery commission.

In reference to Bingo and Pull-tabs, staff looked at states that had charitable Bingo. Texas had the most licensees,

and they allow charities to share the same facility and operate up to seven days a week in a rotating fashion. Most of the information indicated that most states are experiencing a drop in Bingo revenues and in the number of licensees.

The Gambling Taxes Summary reveals that Washington is one of three states that does not receive state gambling tax revenue. Oregon also does not tax, but the profit from Video Poker goes directly to the lottery. The Punchboards and Pull-tabs Summary addressed the question about how Washington compares with out nearest neighbors. Pull-tabs are sold in Idaho and Oregon, but they are sold by the lottery system. Washington has the most extensive private and charitable Pull-tab sales operation.

Director Day noted there are some interesting facts listed by state: he commented that Bingo has declined in most states. California had only had controlled gambling since 1998. Washington appears to be dramatically and substantially ahead in its tribal/state cooperation. Other than California, Washington has the most compacts and the most recognized tribes. The Washington State Gambling Commission appears to be one of the leaders in the country in it's regulatory structure, authority, progress in tribal compacts, length of time the Commission has been regulating gambling, and the level of sophistication in the rules and regulations. In many cases, neighboring jurisdictions probably will be looking to the Commission for leadership in a variety of areas.

Senator Winsley noticed that Montana was not marked. **Director Day** replied that Montana had Video Poker machines and not slot machines, although these are arguable differences.

- B) Special Agent Compensation. **Director Day** recalled that a debriefing memorandum left by former Director Bishop indicated that one of the primary issues he felt needed to be addressed was the issue of what to do with special agent compensation. The agency is facing several challenges in that area from considering a flat percentage increase that agents would get through various career path issues, specialty expertise, and placement in high cost locations (where we are having trouble keeping agents). A decision has been made to move the agents into a "banding" system that allows the agency to develop a salary plan more tailored to the agents and the agency's needs. Staff is in the process of completing that process and submitting the plan for formal approval to the Department of Personnel. Once approved, a representative group of primary operations (agents and program managers) will develop a salary plan that will fit the new banding system. Provided the plan meets the identified parameters, the director must approve the plan before it becomes effective. **Chair Orr** asked if there were questions, and there were none.
- C) Adjusted Cash Flow. **Director Day** reported this report is a method to remind the Commission that licensees are under a new rule at this point. Under the new rule, a licensee that has two consecutive negatives on their adjusted cash flow for their Bingo operation shall be subject to summary suspensions by the Director. Staff developed a listing so the Commission can see the top 40 Bingo operations and how they lay out according to the quarter beginning last April, which was the first quarter under the new rule. It provides the adjusted cash flow for the quarter and the combined gross receipts for that quarter. It also identifies the required cash flow in efficiency ranking. Three operations have had their second negative quarter and adjusted cash flow, and therefore fall into the category that would be automatically summarily suspended. **Chair Orr** asked if there were questions and there were none.
- D) Citation Program – **Director Day** reported that staff is moving forward with the citation project and noted the agenda packet contained the most recent draft the citation.
- E) Council On Problem Gambling. **Director Day** advised that he had met with Executive Director Gary Hanson for introductory purposes and also to reaffirm the Commission's commitment to the Council. He directed attention to the report, saying it speaks for itself, and that it is clear the Council has exceeded the performance expectations. He also called attention to the help line activity which gives a detailed glimpse into the problem gambler as far as those people who have called in and requested assistance. He noted that Internet gambling was identified as the most common non-casino form of gambling involved with those people calling in. At least four significant issues were raised--self-responsibility, liability, enforcement, and a model policy that might help address some of those issues and make the concept more palatable and easier to apply in the state of Washington.

- F. Legislative Round Table. **Director Day** commented about the City Manager from Kennewick who testified before

the legislative committee about the location and proximity of card rooms to churches and schools. Staff will be supplying a draft rule that may give the Commissioners some idea whether or not the agency should get into the public interest issue as it pertains to locations. **Chair Orr** expressed his philosophy that whether or not cities and counties allow different kinds of activities in their jurisdiction, it should be a local control issue. **Commissioner McLaughlin** agreed. Chair Orr said the Commission could find themselves making impossible choices if they start setting these parameters, particularly in areas where they do not understand the geography or the social climate. Director Day concurred and pointed out that current law allows the locality to opt in or opt out. He said Chair Orr described well that that is a tough area, and the Commission may decide not to go there, but in response to the request at the work session, staff would present an option to the Commission for its discussion as to whether or not to pursue it. Chair Orr emphasized that it is the responsibility of the local government to make those choices. Commissioner McLaughlin agreed.

- G. Internet gambling. Commission staff has been asked to provide assistance, if necessary, in drafting legislation pertaining to Internet gambling. **Director Day** explained that he wanted to discuss this issue with the Commission to verify activity and time spent in that area would be acceptable. **Commissioner Forrest** believed the Commission should be active to the maximum extent possible. He believed that ultimately this would be a Federal Government regulation rather than state regulation. He said the Commission should encourage and request the Legislature to express their disapproval of Internet gambling. He believed that we now have very effective regulation of the gambling that has been authorized by the Legislature. He envisioned the problems of regulating Internet gambling as enormous, and at the minimum, the Legislature should first take the position that they don't want it at all. If for either constitutional reasons, or because they are preempted by the Federal Government, then we will see what we have to deal with. Commissioner Forrest hoped that the Commission and staff would request that the Legislature, in effect, ban Internet gambling. This would establish the policy and would be guidance to the Commission. He hoped other states would take the same position. Commissioner Forrest noted that Nevada is examining the idea of authorizing regulating and their Commission is apparently ready to take on the job. He believed this would be a misfortune and he hoped they don't do it, and that the Washington State Gambling Commission should urge the Legislature and their ex officio members to take the strongest action possible to prevent Internet gambling being allowed in Washington State.

- H. Request for Information Memorandum. **Director Day** reported that OFM asked the agency to supply information (from a technical sense) about video gambling, possible tax rates, and at the same time, Internet gambling. He pointed out that the closing sentence of the memorandum addressed a reminder that any revenues generated, if something like this were to move forward, would not be immediately available, and if anything moved forward, it would be important to make sure that the agency has in place a system that provides for sufficient regulation. He emphasized that staff had supplied the information specifically in response to OFM's request. OFM also asked the agency to describe three models of machine proposals. One model is conducted completely through the lottery (similar to Oregon's); another model entails machines being placed at currently licensed locations with a manual system; and the third model entails machines being placed at licensed locations with an electronic reporting system where the machines are connected. All have tax revenues associated with them. Staff used the New Jersey tax figure of 8 percent, which is a conservative estimate (there are percentage rates running as high as 20 percent and as low as Nevada's 6.25 percent).

Commissioner McLaughlin said she did not want anyone to think the Gambling Commission was promoting either activity. **Director Day** assured Commissioner McLaughlin that he made it perfectly clear to OFM that the agency was simply responding to OFM's request for information, and not in a position to promote anything one way or another.

- I. Presentation: Internet Gambling. **Dallas Burnett** provided a presentation to give the Commission a sense on the accessibility and availability of Internet gambling. **Director Day** commented that the statistics are all over the board--between one and seven billion. The number of sites and the amount of Internet gambling activity is substantially increasing. As a regulatory agency, the agency needs to be concerned about honest and fair public protection in the activity, and about how much illegal activity of Internet gambling impacts negatively the lawful gambling in the state of Washington.

Mr. Burnett reported that analysts have estimated the industry will collect revenues between \$1 billion and \$7 billion by the year 2001. Although the figures vary greatly, the fact remains that there are a number of casinos online. Online gamblers appeared to have emerged in 1995 and the activity is alive and well in 2001. In 1997, there was an estimated 12 Internet gambling sites; today there are over 1,300. Statistics show that Americans love to gamble and growing numbers of them are doing it online. Very few countries where these Internet casinos are located recognize United States federal law. Minnesota began an aggressive attack on Internet gambling and applies criminal statutes to operators outside the state who supply illegal gambling. There are recommendations from the National Gambling Impact Study Commission to make laws prohibiting Internet gambling and to pass legislation stating that any credit card debts incurred while gambling on the Internet are not recoverable. At this stage, most online gambling facilities are unregulated. Gambling on the Internet is running rampant. An accredited organization called the Internet Gaming Commission verifies licenses and accredits about 24 online casinos. The structure of the Internet makes it difficult to ban any online market. The ban would have to be agreed upon by every nation. It is believed that our current state laws make it illegal to gamble online because the Gambling Act does not authorize the activity. However, regulators lack federal legislative tools to combat this activity. Federal laws that restrict Internet gambling are associated with the Federal Interstate Wire Act of 1960.

Director Day said that it is unclear whether the current federal law completely prohibits Internet gambling at this point because the discussion is around whether it is directed at sports gambling or not. Washington law would prohibit gambling that is not otherwise authorized in the state. **Jerry Ackerman**, Assistant Attorney General, affirmed. He advised the Commission that Internet gambling is illegal in the state of Washington unless it has been appropriately licensed. He couldn't think how it could be appropriately licensed, so it would be subject to the state gambling prohibitions—the criminal statutes and the civil remedies. The problem is whether the state statutes are adequate in terms of penalties. The criminal statutes are ranked in the way criminal statutes normally are, which means that the highest level of felony is a Class B felony, which has a maximum of 10 years in prison. The reality is that anyone convicted would serve a fraction of the time. The fine under the statute is a maximum of \$20,000. For an enterprise or an individual that is making hundreds of thousands, if not millions of dollars operating Internet gambling, that's not much of a deterrent. The bigger problem is attempting to reach them if they're operating the gaming from outside the state's boundaries. On the federal level, the problem is that as much as the Department of Justice wishes that the 1960 Interstate Wire Act would cover Internet gambling, they've never won one of those cases. Mr. Ackerman believed the Act, in all probability, applies only to sports betting which is why a succession of bills came up in Congress over the latter part of the nineties. The real question is policy, both for this Commission in terms of what it might recommend to the Legislature, and then ultimately, for the Legislature with regard to how aggressively they want to pursue this issue.

Director Day reported that Mr. Burnett's presentation is similar to what was presented at the legislative round table committee and to some of the Governor's staff. **Mr. Burnett** demonstrated the usual technique of going online, and how to access a search mode to find Internet gambling sites. Most Web-based casinos have easy instructions on what to do and how to set up accounts and play. Upon registration, a password and account name is assigned and the individual simply logs in. **Chair Orr** questioned if part of that access process would require utilizing a credit card number. Mr. Burnett affirmed. **Commissioner McLaughlin** asked if minors have the ability to obtain credit cards. Mr. Burnett said not for themselves, but if a parent allows a child to use a debit card, that essentially would give them credit card access. Or, if a parent gives their child credit cards in order to buy items at school, then they could be the signer. Mr. Burnett reported that arguments have been heard regarding children having the ability to access Websites using their parent's credit cards. He noted that some of today's youth have been using computers since they were 10 years old and know how to download programs.

Arguments have also been heard regarding the lack of protection for citizens to assure the gambling is fair while they are gambling online. A state that legalizes this activity must also set out clear licensing requirements and subject them to rules and laws organized around this activity. Nevada recently legalized Internet gambling. New Jersey has a similar bill within their Congress. California and Louisiana have had federal cases that ruled Internet casinos do not violate federal laws, and only online sports betting operations are illegal. Only a handful of states have strictly made Internet wagering illegal: Michigan, Illinois, South Dakota, and Louisiana.

Commissioner Forrest said it's a different thing if the Legislature aggressively prohibits this activity rather than

argue that because nothing is said, that gambling devices are illegal in the state of Washington—it's a far weaker situation. He believed there are going to be a lot of questions whether we can prohibit the bank or make the debts un-collectible. There is a whole range of options that would take a lot of study. He didn't think Washington should sit back and say, "it's not very visible and we don't know what goes on, we have no record of it and close our eyes." Commissioner Forrest thought the Commission should take a positive aggressive step to try and prohibit Internet Gambling. He emphasized that to rely on the fact that because we have a general prohibition and the activity is not authorized, therefore it's illegal, could lead to a difficult series of lawsuits. He urged aggressive action. **Senator Winsley** questioned how this could be enforced -- is it the computer that becomes the gambling device, or is it the activity on the computer -- and how do you regulate it? She believed this is an issue the Legislature will need to address. She said the Legislature is ready and they may put a bill in for the 60-day session, but they will look at the bill and be ready for the 2003 session. Senator Winsley inquired how Nevada collected taxes.

Director Day replied that as he understands, Nevada does plan to go forward, but they are authorizing their Internet gambling to be through their licensed casinos and then charging an additional fee. They are advising that it sounds plausible, but there are a number of regulatory and legal issues that they have to resolve. Director Day affirmed there is some technical ability to trace where the computer activity is, but it is a difficult field. Part of staff's pursuit would be to try to answer some of those questions factually so we are prepared to support those activities if the Legislature desired. **Chair Orr** acknowledged that Senator Winsley's questions were good and they beg the debate. There may not be an answer, but the issue needed to be discussed.

Jerry Ackerman informed Senator Winsley that there are legal ways to do most of the things mentioned. Some of the states, like Michigan, are aggressively pursuing Internet gambling that comes into their state. **Senator Winsley** asked if the Minnesota and the Michigan laws were similar. Mr. Ackerman responded that he didn't know what they're doing in Minnesota; however, they've been very aggressive. Enforcement is the traditional law enforcement sting technique for the most part. There were no further questions regarding the presentation.

- J. Update Reports. **Director Day** pointed out that this section includes administrative, seizure, congressional updates, and tribal updates, and only includes the latest information and activity. He called attention to the news articles in the agenda packet and noted that articles would be included if they have local significance and/or they're similar to some of the debates going on in Washington.

Chair Orr asked if there were questions. There were none. Chair Orr introduced Ray Ebio, from the Business Office, Travis Vessey, Field Agent from Renton, and Amy Schmidt, Field Agent from Lynwood --staff members participating in the agency's Partnership Program. Chair Orr also announced that the Washington State Council on Problem Gambling would be hosting recognition and awards dinner this evening at 6:00 p.m., in the South Center Room.

Chair Orr called for a 15-minute recess at 3:05 p.m. and recalled the meeting at 3:20 p.m. He announced that Agenda Item No. 9, the Kalispel Tribe, Northern Quest Phase II Review would be conducted out of sequence.

9. CONDITIONAL PHASE II REVIEW:

Kalispel Tribe, Northern Quest Casino, Spokane:

Robert Zaher, Special Agent with the Tribal Gaming Unit Staff, introduced General Manager Bruce Diedish and several members representing the Tribal Council, the Gaming Board and the Tribal Gaming Agency. He reported that on May 20, 2001, at the request of the Kalispel Tribe of Indians, the agency's special agents began a Phase II Review at the Kalispel Northern Quest Casino. Through this review they attempted to determine whether the casino had met the requirements for approval of the implementation of Phase II limits as described in the Tribal State Compact. During the initial review, agents found that some of the requirements for the Phase II approval had not been met by the Tribe. On July 12, 2001, agents presented the results of their review to the Gambling Commission. The Gambling Commission voted to allow implementation of Phase II limits by the Kalispel Tribe for at least three months and imposed by Order five specific conditions on the approval. The Commission instructed the agents to conduct a follow-up review and to report the Tribe's progress at the November 2001 meeting. The Commission further ordered that if any of the five conditions had not been met or if any of the conditions of Section 3(k) of the Compact were violated, Phase I scope would be reinstated. On October 1, 2001, special agents began a follow-up review to determine 1) whether the Tribe had complied with the five conditions of the Commission's Order, and 2) whether any of the conditions of Section 3(k) had

been violated since the Phase II review.

The first condition of the Order of the Gambling Commission was the Tribal Gaming Agency (TGA) operation's staff work in conjunction with state gaming agents to follow up and resolve the outstanding issues found in the Phase II Review. Following the Phase II Review, staff provided the Tribe with a list of outstanding issues involving the casino operation and the TGA. Both TGA and the casino staff were cooperative in working with the special agents to address these issues. All of the issues at the Phase II exit conference were resolved.

The second condition the Commission ordered was that the casino staff was to submit all background investigations as required as well as perform background investigations for all key employees and primary management officials, to license all applicants within 90 days and to develop procedures for all gaming operation employees. Throughout the year, the National Indian Gaming Commission has worked with the Tribe to identify and correct licensing violations. Shortly after the July Commission meeting, the NIGC conducted a follow up review and found that a number of background investigations had not been sent in as required, and NIGC agents also found discrepancies between information provided to the NIGC and the information contained in the Tribe's files. During their follow-up review, they found that some applicants had not been permanently licensed within 90 days and this was in part due to problems with the licensing department's attention to certain applications, and in part, due to delays in receiving a criminal history background from this agency. The TGA violated its licensing regulations by failing to administratively close the files of some applicants who had not submitted fingerprint cards as requested. Recently, the Tribe has caught up on its background investigations submissions to the NIGC. NIGC has just completed another follow up review and is now satisfied with the Tribe's progress. Agent Zaher provided a copy of their recent report dated November 13, 2001. The general assessment from the NIGC was that the Kalispel Tribal Agency's licensing process had undergone a vast improvement since July 2001 and satisfied the issues outlined in the previous notice of violation. However, because not all the applicants were licensed within 90 days—which is the specific order of the Commission—the Tribe didn't meet the exact requirements of that particular part of the Order. The Tribe was to properly document all tribal state compact Appendix A modifications, including revisions to internal controls and/or game rules and procedures and memoranda of understanding which were to be approved by the tribal gaming agency and the state gaming agency prior to their implementation. One of the issues brought up at the July Commission meeting was that certain procedures and policies had been changed without authorization and concurrence by the state gaming agency. After the Phase II Review, the agency received several MOU requests and internal control revisions from the Tribe. Although all of the revisions were not specifically included in the MOUs, as the Commission's Order directs, the agency has only required MOUs in circumstances where the proposed procedures conflict with the tribal state compact. The agency did not require the Tribe to revert to certain previously documented procedures while the MOUs and internal control submissions were being reviewed. No evidence that the casino implemented any new procedures without following the proper submission procedures and obtaining approval from both the tribal gaming agency and the state agency were found after the Phase II Review. Therefore, staff believes the Tribe is compliant with the intent of that condition.

The fourth condition was that the tribal gaming agency was to continue to follow the requirements for its regulatory program and continue to provide training for agents who did not have prior experience regulating a casino gaming operation. Agents determined that the tribal gaming agency was continuing to follow its regulatory program and has provided considerable training for its personnel since the Phase II Review. WSGC will also continue to provide training and guidance to the tribal gaming agency staff in this area. Staff believes the Tribe is in compliance with the condition.

The last special condition the Commission imposed was that the casino operation staff was to follow all requirements set forth in Appendix A. Staff found two violations of Appendix A had occurred since the Phase II Review, but staff considers them to be isolated incidents and believes that overall, the casino made an effort to comply with that condition.

There were five requirements for Phase II approval as contained in Tribal State Compact Section 3(k), which were the initial standards that were looked at during the initial Phase II Review. There have been no violations of the provisions of this compact which have resulted in sanctions imposed by the Federal District Court or the National Indian Gaming Commission.

The second requirement was that there had been no violations of the Compact which are substantial or due to repetition would be deemed material. Staff discovered several minor violations of the Tribal State Compact. One material violation was discovered which is a violation of Section 4(b) of the Compact covering the certification of gaming

employees. On October 30th, agency agents conducting a Tribal Lottery System [TLS] review confirmed that as of October 22, 2001, 14 employees were working at the casino with an expired state certification. The agents found that the TGA's licensing department had not renewed the certification of some applicants who had transferred to the casino from other gaming establishments. This violation was immediately brought to the attention of the TGA administration who responded to the violation by 1) not allowing the individuals with expired certifications to work; 2) modifying the agency's licensing procedure to ensure that employees are adequately notified prior to the expiration of their licenses; and 3) instituting monthly payroll audits to ensure that all gaming employees are certified. **Agent Zaher** noted that due to this material violation, staff believes the Tribe has not met that particular condition for Phase II approval, which requires no material violations. However, the Tribe has taken significant steps to prevent this violation from reoccurring. Agents will follow up on the Tribe's progress during the tribal lottery system review which is currently in place, and staff has already advised the Tribe that any recommendation to allow expansion of the tribal lottery system will be contingent upon the demonstrated compliance in the area of the certification of employees.

The third requirement is that there be no material adverse impacts on the public health, safety, or welfare of the surrounding communities. Discussions with local law enforcement revealed no material adverse impacts.

The fourth condition requires the TGA to develop a strong program of regulation and control demonstrating an adequate level of proficiency. During the initial Phase II Review, staff noted a deficiency in the training and experience of agents and it was found that the regulatory program had really not been in place long enough to make an adequate determination as to the agency's effectiveness. Since the Phase II Review, TGA personnel have undergone considerable training. In addition, the agency has consistently produced audit investigative reports of a high quality and has instituted a schedule of checklist completion. Staff is now confident that the TGA meets that criterion.

The fifth and last condition is that there are no material violations of the Appendix A or B of the Compact. There were no material violations found of Appendices A or B. During the follow up review, agents found that the Tribe has substantially complied with both the Commission's Order and Section 3(k) of the Tribal State Compact. In contrast to the broad scope of the violations found in the initial Phase II Review, material compliance problems found during this review were limited to the licensing function of TGA and these problems have been resolved by the TGA administration. Agents are satisfied with TGA's efforts to correct these issues and will work closely with them to ensure the violations are not repeated. Therefore, staff recommends that the conditions on the Phase II approval be lifted. Staff expressed their thanks to the government of the Kalispel Tribe, the management and employees of Northern Quest Casino and to the Kalispel Tribal Gaming Agency for their assistance and cooperation during the entire Phase II Review process.

Commissioner Ludwig asked about the reference to the tribal lottery system expansion review and if that referred to Appendix X machines and the numbers. **Agent Zaher** affirmed. **Commissioner Forrest** asked when that would take place. Agent Zaher said it usually takes place about a year after opening, although it had been granted earlier than that on several occasions. This is a case where they've begun the review prior to the anniversary of the casino.

Commissioner Forrest said he respected the efforts that have been made, but it seemed like this was close to another recommendation for conditional approval. **Agent Zaher** affirmed that staff would continue to follow up on licensing issues and so forth—but, that they are not the heart of the tribal lottery system expansion, which is directed to the actual operation of the machines. He noted the review of the certification is a part of the TLS review. Staff makes sure that all of the employees of the casino are certified including those that are operating the system. Commissioner Forrest thought this should be put back on the January agenda to see if they've tidied everything up. Agent Zaher said staff was confident that the licensing issues have been taken care of -- the tribe instituted new procedures; they've instituted a schedule for review to make sure that all the employees are certified and the NIGC is also satisfied with the progress they are making. Commissioner Forrest noted that the last time they had their review, it was one of the worst "first" reviews, and that they have had quite a bit of time and there are still persistent problems. His inclination was to require them to come back in January and see how much progress they have made. **Commissioner Ludwig** said he needed to know if the Commission lifted the Phase II approval conditions and if things don't get corrected and remained the same, what course of action is available to the Commission? **Agent Zaher** said uncertified employees are treated like any other violation. This is going to be an area the Commission's agents will be following extremely closely because they know there has been a problem with this, and they would treat it like another violation. They would issue a warning letter or pursue any other sanctions available.

Commissioner McLaughlin asked if the Phase II reviews at Indian casinos addressed the Blackjack tables? **Agent Zaher** explained approval of Phase II would allow an expansion of all tables, not just Blackjack tables in addition to an expansion of operating hours. **Agent Zaher** said the Phase II Review he is talking about did not address the tribal lottery system number of components. He clarified that at this point, the letter before the Commission does indicate that the NIGC is satisfied with the progress that the Tribe is making. They conducted one review in July and they found continued problems. Another review was just completed last week, and they found that the problems had been resolved.

Commissioner Ludwig asked about the area of expired licenses or certifications and whether there is a provision for summarily putting those employees out of work. **Agent Zaher** affirmed employees were told that they could not work until the application was properly submitted to the agency for renewal. **Commissioner Ludwig** thought that should be strong motivation for them to correct the problem and get their certificate or their license renewed promptly. **Agent Zaher** hoped the Tribal Gaming Agency would remind the employees when their licenses are about to expire and explained that it's ultimately the responsibility of the TGA to make sure that everybody in the facility is certified. Staff is confident, based on the steps taken by the TGA that this isn't going to happen again. **Commissioner Ludwig** affirmed that most people know when their license expires. **Agent Zaher** agreed. He pointed out that in other facilities the gaming agency in charge of issuing the licenses and maintaining the records will issue a reminder memorandum to the supervisors of each department when certain people are up for expiration.

Bob Berg, Deputy Director, offered two other considerations. He said that while expired certifications are an issue, they are not the same as not being certified in the first place. An individual who is originally certified or licensed, goes through the background checks. The issue being discussed is the failure to renew, so the certification expires, which is not only a revenue event for the agency, but also the individuals who were originally vetted/backgrounded when they came to work, which is a significant event. Additionally, the Commission does have a handle in regard to the TLS Phase II Review because they would not be allowed to go forward with an expansion of additional machines should there be problems that have not been addressed or solved. **Commissioner Ludwig** asked if that was a sufficient hammer and to then follow the recommendation and lift the conditions on the Phase II Review. **Mr. Berg** affirmed it is an extremely high motivator for the casino operations and from another approach, the TGA to maintain compliance. He explained there are a couple significant events dealing with tribal casinos -- one is the Phase II Review generally for casino operations, which is what was conditioned at the meeting in July. The second significant event is the Phase II TLS Review where staff asked very similar questions and an administrative decision is made by the director whether to allow them to go forward. He emphasized there's a huge incentive to make sure all their ducks are in a row.

Commissioner Ludwig said the Commission doesn't approve going forward on the tribal lottery system. **Mr. Berg** affirmed and added that the director approves TLS Phase II's. **Chair Orr** asked if anyone from the Tribe wished to speak.

Bruce Didesch, General Manager, Northern Quest Casino, responded to the Commission's concern about the 14 incidents that **Agent Zaher** mentioned relating to the transfer of licenses. He said he was pleased and confident that their operation is one of the best in Washington. He believed the facility had a number of people who worked in other facilities, and this was simply a problem relating to the transition between multiple licensing agencies. Under the Commission regulations, an individual can transfer their license when they move to a new facility. The difficulty was that there was a lapse in communication and in some instances the notices didn't get to the people. **Mr. Didesch** believed this is a difficulty that occurs when there are two regulatory agencies. He assured the Commission this will never happen again, and that they have taken steps to remind people to timely renew their license. He emphasized that they did have their tribal license, their federal license, and state certification -- the state certification lapsed. He asked the Commissioners to approve the facility for Phase II.

Commissioner Ludwig asked if all three of those licenses expired at different times. **Mr. Didesch** affirmed, however, he indicated he would be asking if they could approach the state and possibly have them expire on the employee's birthday.

Commissioner Forrest addressed the supplemental report dated October 26 and October 30, and noted the violation of compact and game rules -- which talks about operational problems. He commented that wasn't very long ago, and it seemed this is one more area in which there was less than 100 percent performance. **Agent Zaher** responded that the issue related to several of the dealers not being consistent in their shuffling procedures. Staff viewed that as an isolated

incident. He affirmed there would always be dealers that aren't trained as well, or they may be new, and affirmed that it is a violation of the casino's procedures; however, it doesn't constitute a situation where actual procedures had been changed without approval. These were just incidents of individual dealers that are not following proper procedures.

Commissioner Forrest asked what it meant when the report identifies the exception of report 01-0088 which is a continuing investigation. **Agent Zaher** said it refers to an investigation by the tribal gaming agency, not by the state agency. Commissioner Forrest asked if any of those had been forwarded to the state gaming agency. **Agent Zaher** responded that no cover letters were found, there is still one report missing, and the reason that the report is missing is because they are waiting for information from the Gambling Commission to complete their report. Because they've explained that to the agency satisfactorily, they didn't consider that to be a violation. **Julie Lies**, Program Manager, Tribal Gaming Unit, advised that particular case number is a TGA case number, and they are doing a continuing investigation on an individual at their casino. The TGA is not complete with their investigation. Commissioner Forrest said they still have an unanswered question. Ms. Lies affirmed and said the Compact requires the TGA to notify the agency within 72 hours. The Compact also states that they need to submit case reports on a continuing basis. They have not submitted that case report because it's still under investigation, but the agency has been notified of that particular investigation. Commissioner Forrest thought that sounded inconsistent and asked what the ongoing investigation was about. Ms. Lie said she could not divulge that in a public forum, but she could discuss it confidentially. Commissioner Forrest said it gave him even more concern if it's serious enough that it can't be disclosed in a public meeting. Ms. Lies explained it's currently under investigation which is why it can't be disclosed in a public meeting. It has been disclosed to the Tribal Gaming Unit and it has been disclosed to the agency, so we are aware of the investigation and that TGA is conducting the investigation. **Chair Orr** noted that however major or minor the investigation, if it's an ongoing investigation, then it needed to be kept confidential.

Mr. Berg indicated that it is important to note that there will always be ongoing investigations. The Tribal Gaming Agency is an investigative agency. He assured the Commissioners this specific case is not related to the Phase II aspect; it's only related because they are required to notify the agency of outstanding cases if they have not provided the report. Just like the agency's special investigations unit or tribal gaming unit, regulatory agencies always have open cases which they cannot discuss in a public setting. **Director Day** affirmed that it appears the violations have either been corrected or are in the process of being corrected to the satisfaction of the regulators. They are not material in nature that goes to the heart of the operation.

Commissioner Ludwig made a motion seconded by **Commissioner McLaughlin** to lift the conditions on the Phase II approval. Commissioner Ludwig said he based his motion on Director Day's comments and the testimony of the special agents. He believed there is plenty of concern by both the state and the tribal government and gaming agency that they are making the progress that staff expected them to make. **Commissioner McLaughlin** commented that she had the pleasure of visiting Northern Quest and they've done a good job. *Motion taken; motion carried with three affirming votes. Commissioner Forrest cast a nay vote.*

4. NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS:

Commissioner McLaughlin made a motion seconded by **Commissioner Forrest** to approve the new licenses, changes and tribal certifications listed on pages 1 through 26 of the agenda packet under License Approvals. *Vote taken; the motion carried with four aye votes.*

5. GROUP IV QUALIFICATION REVIEW:

Boys and Girls Clubs of Pierce County:

Monty Harmon, Program Manager, Financial Investigations Unit, said this organization was formed in 1940. The mission of the organization is to inspire and enable all young people, especially those from disadvantaged circumstances to realize their full potential as productive, responsible, and caring citizens. Licensed since 1979, the organization is governed by a board of 57 active members who conducted seven meetings during the fiscal year. The organization provides programs and services in the following five core areas: education and career development, health and life skills, character development and leadership, the arts, sports fitness and recreation. For fiscal year ending December 31,

2001, the organization achieved a 16 percent net return. The organization met its program service requirements and did not have excessive reserves. There are no pending administrative charges. Based on staff's analysis of the financial statements, narrative and supplemental information provided with their application, the organization made progress toward accomplishing its stated purposes. Boys and Girls Clubs of Pierce County is qualified as a bona fide nonprofit organization for purposes of conducting authorized gambling activities. Staff recommends Boys and Girls Clubs of Pierce County be approved as a charitable organization and be authorized to conduct gambling activities in the state of Washington.

Commissioner Forrest made a motion seconded by Commissioner Ludwig to approve the Boys and Girls Clubs of Pierce County located in Tacoma as a charitable organization and that they be authorized to conduct gambling activities in the state of Washington. Vote taken; motion passed with four aye votes.

6. GROUP V QUALIFICATION REVIEW:

Big Brothers/Big Sisters of King and Pierce Counties:

Monty Harmon, Program Manager, Financial Investigations Unit, reported this organization was formed in 1957. The organization is an agency dedicated to developing friendships between adult volunteers and children from single parent families where there are no consistent role models. Licensed since 1957, a board of 25 members governs the organization and they conducted 12 meetings in the last year. During 2000, the organization provided services through programs that recruit and screen volunteers to match one-on-one with boys and girls to model a positive self-image. They also provide school-based matches that offer mentoring. For the year ended December 31, 2000, the organization achieved a 9.1 percent net return. They met their program service requirements and did not have excessive reserves. There are no pending administrative actions against the organization. Based on staff's analysis of the financial statements, narrative and supplemental information provided with their application, the organization made progress toward accomplishing its stated purposes. Big Brothers/Big Sisters of King and Pierce Counties is qualified as a bona fide charitable nonprofit organization for purposes of conducting authorized gambling activities. Staff recommends Boys and Girls Clubs of Pierce County be approved as a charitable organization and be authorized to conduct gambling activities in the state of Washington.

Mr. Harmon addressed Schedule A, and noted there was an adjustment made regarding the non-gambling income. It was reported at \$3 million, which was revised down to \$2.3 million. That adjustment is the result of netting fund raising costs. Because that was done under the expense area for program services, the direct number was represented at almost \$3 million, which was a mistake, and has been corrected to \$2.3 million.

Commissioner Forrest a motion seconded by Commissioner Ludwig to approve Big Brothers/Big Sisters of King and Pierce Counties as a charitable organization and that they be authorized to conduct gambling activities in the state of Washington. Vote taken; motion passed with four aye votes.

7. MANUFACTURER REVIEW:

No Peek 21, Laughlin, Nevada:

Tina Griffin, Program Manager, Financial Investigations Unit, reported this organization has applied for a Class B manufacturer license so that they may continue to market their No Peek card reading device in the state of Washington. They currently hold a special sales permit. Their devices are currently in use in many of the licensed card rooms and Class III facilities in the state. Corporate headquarters and assembly facilities are located in Laughlin, Nevada. There are two shareholders in the corporation: Larry Wagner and Don Laughlin. The registered agent in the state is Robert Lindscott, located in Olympia, Washington. No Peek 21 was incorporated in 1991. Mr. Wagner came up with the idea and Mr. Laughlin then assisted Mr. Wagner in the development and the marketing of the device. The patent is held for No Peek 21 in the name of Mr. Laughlin and Mr. Wagner. The No Peek 21 device is distinguished from other No Peek devices because of its light indicator. No Peek 21 holds licenses in the states of Wisconsin and New Jersey. They are also licensed in many tribal jurisdictions. The jurisdictions were contacted to verify the applicants' licenses were in good standing. No adverse information was noted. On October 9, 2001, special agents visited the No Peek 21 headquarters in Laughlin, Nevada. A thorough review was conducted of the company's financial records, articles of incorporation, board meeting minutes, contracts and agreements. Procedures performed included an analysis of corporate records to determine whether there were undisclosed entities having influence over the applicant. During the

visit special agents toured the applicant's facility and interviewed personnel at various levels of the organization to verify the source of operating funds, the representations made in their application packet, and to determine compliance with the Commission's rules applicable to the manufacturer license to do business in Washington State. No information was noted during the investigation to preclude the applicant from licensure in Washington. Based on staff's review of the application and financial documents, the applicant qualifies for a gambling manufacturer license in Washington State and staff recommends licensure of No Peek 21, Inc., as a Class B Manufacturer.

Mr. Wagner was present. **Commissioner Ludwig** asked about the device. **Mr. Wagner** responded that the device indicates that the hand dealt is not a 21, or that it is definitely a 21. The light will turn green which means to continue with the game. Commissioner Ludwig asked if it is used at most Blackjack tables and Mr. Wagner affirmed.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to approve licensure of No Peek 21, Inc., as a Class B Manufacturer. *Vote taken; the motion passed with three aye votes; **Commissioner McLaughlin** abstained because she was not familiar with the devices.*

8. HOUSE-BANKED CARD ROOM REVIEWS:

Lincoln Heights Investment Company dba Silver Lanes/Scrapbook Restaurant, Spokane:

Artis Collins, Program Manager, Licensing Unit, reported this company was formed as a privately held Washington corporation on August 11, 1958 and is authorized to issue 1,500 shares of stock, for which 1,316 have already been distributed. During the investigation, special agents conducted a criminal and personal history background investigation of all substantial interest holders and initiated and completed a financial investigation on both the corporate and individual stockholder's finances. During this investigation, no disqualifying information was found. On October 26, 2001, special agents completed an on-site preoperational review and evaluation (PORE) in accordance with the rules of the Commission. The applicant was found to be in compliance. Based on the results of the licensing investigation and the PORE, staff recommends that Lincoln Heights Investment Company dba Silver Lanes/Scrapbook Restaurant be licensed as a house-banked public card room and be authorized to operate up to 15 tables with a maximum \$100 betting limit. Mr. Collins introduced Mr. Harold Higgins, President, who was available for questions.

Mr. Higgins clarified this facility has been operating as a Phase II levels, and Data Mac Inc.'s assets were purchased by Lincoln Heights Investment. **Mr. Collins** affirmed that Mr. Higgins was involved in the operation prior to taking over the ownership, which is why he is being considered at the Phase II levels. **Commissioner McLaughlin** asked why there were no financials on the new owner. **Bob Berg**, Deputy Director, clarified that Scrapbook Restaurant was originally licensed on September 9, 1999 and moved to Phase II -- it had been licensed for some time. After the sale, agents conducted a review to qualify the new owner as a licensee in terms of criminal history and financial checks.

Mr. Higgins pointed out this is one of the first cases in the state of Washington. He said he had no financial interest in Data Mac and they negotiated for Lincoln Heights Investment to purchase the assets of Data Mac Inc. and the sale was contingent upon approval for a WSGC license. The management of the casino is staying the same and the gaming operations manager and the controller are staying with Lincoln Heights Investment. He noted there are two ways to purchase a business. One would be by buying the corporate stock -- this is a purchase of the assets by Lincoln Heights Investment who now owns the land and building that Data Mac Inc previously operated. Lincoln Heights Investment originally held a gambling license in 1993 when they sold to Data Mac. They are now repurchasing the business. Mr. Higgins noted there are two separate companies for which his family maintains substantial ownership, East Bowl Limited which owns Players and Spectators and Lincoln Heights Investment Company which is purchasing the assets of Data Mac at the Scrapbook Silver Lanes.

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** to approve Silver Lanes/Scrapbook Restaurant to be licensed to operate a house-banked enhanced card room with a maximum \$100 betting limit. *Vote taken; the motion passed with three aye votes.* **Commissioner McLaughlin** abstained because she felt she did not have enough information.

Celebrity Casino, Kennewick:

Artis Collins, Program Manager, Licensing, reported this organization formerly known as Celebrity Bowl was formed as a partnership in Washington State on September 1, 1992, and has applied for a license to operate up to 15 tables of

house-banked card games. Leo and Barbara Frank own 75 percent of the partnership shares and Mark Frank, their son, owns 25 percent of the partnership shares. They now hold a Punch board/Pull tab Class C license and a commercial amusement game Class A license which is expiring. During the investigation, special agents conducted a criminal and personal history background investigation of all substantial interest holders and initiated and completed a financial investigation on both the corporate and individual stockholder's finances. During this investigation, no disqualifying information was found. On October 16, 2001, an onsite preoperational review and evaluation in accordance with Commission rules was conducted and the applicant was found to be in compliance. Based on the results of the licensing investigation, staff recommends Celebrities Casino be licensed to operate a house-banked enhanced card room with a maximum \$25 betting limit. Mat Frank, Manager of the facility, was available to respond to questions.

Commissioner Ludwig asked Mr. Frank to tell the Commission about his location. **Mr. Frank** said this was a location surrounded by schools and a church and there were questions about whether it could be operated properly in that kind of environment. There was a lot of discussion between the school board and his brother. Eventually they came to an agreement, which was attached to the liquor license. Commissioner Ludwig pointed out that they had the liquor license for quite some time before deciding to change the facility to include a card room. Mr. Frank affirmed and said there have been no problems. Commissioner Ludwig said there was a situation with the city of Kennewick regarding getting a permit and license. Mr. Frank affirmed there was some concern because of the proximity of the casino to the schools. The school board wanted certain things in writing according to their procedures before they would allow them to operate. There had been a disagreement between his brother and the school board as to whether they had followed an agreement in the past, however, it was all worked out, they came to an agreement and it was attached to the liquor license.

Commissioner Ludwig asked if they raised any questions when they found the facility was going to be a casino. **Mr. Frank** affirmed that was when the challenges began. **Commissioner Ludwig** pointed out that they changed the name from Celebrity Bowl to Celebrities Casino and the neighbors around them will no longer consider this a bowling alley, but a casino. Mr. Frank said they are adding a restaurant and a pizza delivery service and there will be a sign that says Marco's and one that says Celebrities Bowl. Commissioner Ludwig asked about the size of the casino sign next to the church. Mr. Frank said it is about the same size as the sign that is there already, but it will be above the entrance.

Commissioner Ludwig asked how much money Mr. Frank had invested to facilitate a card room alongside the bowling alley. **Mr. Frank** said he had invested over a million dollars.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to approve Celebrities Casino to be licensed to operate a house-banked enhanced card room with a maximum \$25 betting limit. *Vote taken; the motion passed with three aye votes.* **Commissioner Ludwig** abstained, saying that he did not like the location, but he wouldn't vote against the motion because of the investment that had been made prior to this meeting. He said that if the Commission is ever able to decide location, they should make the decision about the location before any money is spent. **Commissioner McLaughlin** said she didn't think it is the Commission's business; it's the city of Kennewick's business. **Commissioners Forrest** and **Orr** agreed.

Senator Winsley announced that the Senate Commerce & Labor & Gambling Committee would be meeting Monday, November 19th in Bellingham, at City Hall at 9:00 a.m. The agenda included the Washington State Council on Problem Gambling, legislative proposals for 2002, and Tribal Gaming in Washington and for charitable and nonprofit gaming.

10. **FINAL ORDER ON REMAND:**

Dixie Schule, Card room Employee:

Neil Gorrell, Assistant Attorney General, representing staff, introduced Mr. Mark Watanabe who represents Ms. Schule. He pointed out that they had been before the Commission on this matter a couple of times. He presented an Agreed Order which both counsel agreed to, which will dispose of this matter. **Mr. Gorrell** reported that he had written a memorandum which explains (from the staff's perspective) why this is a good decision. The attorneys were present to answer any questions.

Chair Orr commented that from what he had received, Ms. Schule seems to be satisfied. **Mr. Watanabe** affirmed.

Commissioner Forrest commented that they had done a good job resolving this case. **Mr. Gorrell** thought it evidences compromise on both the staff's position and Ms. Schule's. It evidences an intent to take the actions that may have happened in the past, put them in the past and move on in a cooperative way to work together in the future. This Order

does preserve the Commission's charges that were affirmed and Ms. Schule did set out for a period of approximately nine months which is in excess of the suspension that the Commission wanted to impose.

Commissioner Forrest made a motion seconded by Commissioner Ludwig to accept the compromise Order. *Vote taken; motion carried with three votes and one abstention by Commissioner McLaughlin.* Commissioner McLaughlin explained she could not hear the comments.

11. OTHER BUSINESS/GENERAL DISCUSSION/COMMENTS FROM THE PUBLIC:

Chair Orr called for comments and there were none.

12. EXECUTIVE SESSION TO DISCUSS PENDING INVESTIGATIONS, TRIBAL NEGOTIATIONS & LITIGATION:

Chair Orr called for an Executive Session at 4:45 p.m. and recalled the public meeting and adjourned the meeting at 5:15 p.m.

MEMBERS PRESENT:

RICK DAY, Director;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
ROBERT BERT, Deputy Director, Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
JERRY ACKERMAN, Assistant Attorney General; and
SHIRLEY CORBETT, Executive Assistant

OTHERS PRESENT:

"At our October meeting, at our invitation, proponents of the Free Spin Machine made a presentation and demonstrated their device to the Commission. And while we have no petition before us, they also explained why they thought it was legal to supply the Commission with a number of documents supporting their views. We were also informed by enforcement staff that it was their view that the machine was not legal in this state and that they would take enforcement actions against such machines unless the Commission, as the agency's chief executive authority, directed otherwise."

Mr. Woodring asked if it is the Commission's position that under RCW 9.46.0356(6) this particular machine is an illegal gambling device.

Commissioner Forrest said he didn't think it would be appropriate to have that kind of a debate between the Commission, particularly with two of the members being physically absent. He believed the statement read by the Chair reflected his view. The next move is up to Mr. Woodring's clients to do whatever they wish to do and however they choose to put it. Commissioner Forrest noted there is no formal petition before the Commission and the statement read is sufficient. He believed that the Commission is not in a position to have an argument between the Commission and staff—that's why there is a court system to decide who is right about interpretation of what the law means. **Mr. Woodring** responded that it would help them understand what the circumstances are, and because there is not a formal petition before the Commission, he asked if he should construe this to mean that this statement is not an order of the Commission under the Administrative Procedures Act.

Jerry Ackerman, Assistant Attorney General, said that his understanding is correct—that essentially he needed to remember the history of this, which is that the Commission invited the proponents of the machine to come and to explain the machines so that they could better understand both this machine and the evolving issues that were coming forward. He asked Mr. Woodring to bear in mind that there was a proponent of another machine at the same time Mr. Woodring's clients came forward and indicated they would like to bring this one into the state of Washington. That was the basis upon which Mr. Woodring's machine was brought here and demonstrated. In fact, it was staff's understanding that Mr. Woodring's clients had indicated that they didn't need the Commission's permission to bring this machine into the state and they have correspondence that essentially says words to that effect—that they've checked with five lawyers and this machine is legal and they don't need the Commission's permission for anything. That's the basis upon which Mr. Woodring's clients were here at the last meeting. Mr. Ackerman said that if he understands what Chair Orr has said, the individual Commissioners have simply said they are not inclined to ask the Commission as a group to direct Commission staff to take a different position from the one they've articulated, which is that they believe Mr. Woodring's machine is an illegal gambling device in the state of Washington. To the extent that anything was being considered, it was whether or not individual Commissioners wished to bring a motion to have the Commission as a whole exercise its executive authority to direct staff to change its enforcement position, and evidently none of the Commissioners are inclined to bring such a motion. **Mr. Woodring** asked if he could construe that to mean that this decision is not subject to the Administrative Procedure Act and appeal under that Act. Mr. Ackerman said Mr. Woodring would have to interpret that for himself. Mr. Ackerman said he personally does not see it as an APA decision. Whether Mr. Woodring's clients agree with that or not, or whether Mr. Woodring agrees with that or not is something Mr. Woodring will have to decide.

13. MINUTES – October 10 and 11, 2001:

Commissioner Forrest made a motion seconded by Commissioner Ludwig to approve the Regular Meeting Minutes of October 10 and 11, 2001 as presented. Vote taken; the motion passed with four votes.

14. STAFF REPORT - QUALIFICATION REVIEWS - DIRECTION FOR THE FUTURE:

Deputy Director Robert Berg reported that the qualification reviews were for the purpose of determining if a charity or nonprofit organization qualifies for a gambling license in accordance with regulations adopted by the Commission. Over the last six months, he had spoken with each Commissioner individually about some of the issues surrounding qualification reviews and some of the circumstances the staff has found in making the presentations to the Commission on a monthly basis. This has become an issue in the staff's mind because the current rule does not make sense in terms of the Administrative Procedures Act, its timing relationship with the issuance of licenses to nonprofits, or maximizing the agency's regulatory effectiveness. For the past several years, information regarding gambling activities of certain nonprofit and charitable organizations that conduct Bingo has been presented to the Commission on a regular basis. Over time, because of Commission interest, the presentations have become less focused on qualifications and more focused on net return issues. Recently adopted rules that have replaced net return with adjusted cash flow as the yardstick for an organization's fundraising effectiveness have provided staff an opportunity to more fully examine the qualification review process.

Under the agency's current regulatory program, the nonprofit organizations offering Bingo—the larger halls—are subject to specific regulations set forth in Washington Administrative Code Title 230. Staff's regulatory concerns deal with organizations that receive more than \$1 million (staff call them the top 48) and they are required to file financial statements with the Commission. Staff talks about those as Group III, Group IV, and Group V. The ones the

Commissioners see each month on an annual basis are the Group IV and V's. There are 27 of those licensees statewide. By WAC rule, they must be brought before the Commission in a public meeting. Staff presents information in those qualification reviews as to the organization's qualifications, their significant progress, and net return issues. The present qualification reviews to the Commission are in accordance with those rules, and the Commission takes action by vote to authorize the charitable or nonprofit entity to conduct gambling activities in the state of Washington. That affirmative vote is based on determining that the organization is in fact qualified. When staff brings those reports to the Commission, they look to see that the organization complies with all the requirements set forth in its by-laws and articles of incorporation.

There are four or five things that staff looks at to determine that an organization's qualified number of members, board members, number of meetings, elections, and those kinds of things. The second thing staff talks about when they bring forth qualification reviews is the significant progress rule. Are they returning money back to the charitable purpose or the nonprofit purpose for which the organization was founded? There are some arithmetical computations that are used and 60 percent must go back to the organization, and of that only so much can be used for support services—35 percent unless all the funds are passed through. If there are federal or grant funds commingled, then the overhead is reduced to 20 percent. The bottom-line issue is that the Administrative Procedures Act controls actions against licenses, not the presentations to the Commission in these monthly meetings with regard to the qualification reviews.

The question arises as to what action is the Commission actually taking when they give an affirmative vote, especially when staff has brought forward an entity that is in some regulatory difficulty, but for the purposes of the rule is currently qualified? The challenge they have in regulating this issue is that staff wants to bring forth reports that add value to the agency's regulatory program, that provide meaningful information to the Commission, and don't run afoul of the APA. Staff believes the current program by which staff brings these qualification reviews forward does not do any of those three. Staff doesn't believe the way it is done adds value to the regulatory program. Staff also doesn't believe that it provides a meaningful avenue to address licensee violations at the time staff presents the qualification reviews to the Commission nor because of the APA process, can staff talk about all of the things that are part of an investigation because the Commission sits as the appellate body for a decision of an administrative law judge. With that, and after discussions with the Commissioners, an action team was formed which involved agents from FIU, individuals from the agency's financial reporting services, and from the agency's licensing services section to determine if there is a better way to do this. The purpose today is to give the Commissioners a mid-point report and tell the Commission which direction staff is going in to see if that meets with Commission approval. Staff wants to design a presentation format that provides the Commission truly meaningful information that segregates regulatory concerns from the presentation as those regulatory concerns are handled through the APA process.

Under staff's proposed program, the larger licensees would continue to submit their financial statements as they do now and the Group IV and V licensees that are currently presented to the Commission annually would be presented to the Commission over a period of three years. Instead of having three or four each month, there would be one, possibly two, as there are 27 licensees. Over three years, the Commission would meet about 27 times. Staff would make a determination on the analysis of the information submitted, coupled with their own investigation, that the organization had made significant progress toward the stated purpose. If the organization was out of compliance, staff would conduct further investigation, begin appropriate administrative action, and that organization would not be presented to the Commission until such time as the APA process had worked its will. If the organization was in compliance, a report concentrating on the specific issues around their being qualified under the statute would be presented to the Commissioners. The report would look a little different and the licensee would attend to talk about their programs and what they do, much as they do now. The advantages from the staff's perspective are that it would reduce the burden to the licensee—the qualification review would come before the Commission once every three years. That would reduce some of their reporting and analysis requirements to staff, and it would reduce the hours spent by the financial investigations unit in preparing for Commission meetings on a monthly basis with these reports. This would allow greater time for other investigative work. It would also make staff's regulatory efforts more efficient and effective. They would be using risk analysis and focus more on onsite program reviews which staff does not do enough of because staff is in the continual mill of producing these qualification reviews.

Staff understands that the Commission has a vital interest in the health of the Bingo industry and a report is being generated on a quarterly basis to show the overall health of the industry and the various larger operations. Staff would also like to provide a regional breakdown of some of the overall Bingo net income issues so that the Commissioners

would be able to look at this on a regional basis, much like what was done during the net return task force. The program staff proposes is to bring something to the Commission only if they are in compliance; if not, they would not be brought before the Commission.

Commissioner Ludwig asked if Mr. Berg's words "if they're qualified" simply meant, are they still a nonprofit or charitable organization? **Mr. Berg** affirmed that that's the first half, the second half is, to remain qualified, they must be making what is called in the agency's rules "significant progress towards the purpose for which they were established." Commissioner Ludwig addressed one specific example where every time they do the qualification review, they are either breaking even or showing a net loss. It seemed to him they have been told that doesn't affect their qualifications and the Commission can't say they're no longer qualified for that reason, even though they're losing money. Mr. Berg affirmed that the issue of an organization losing money does not go to the qualification of that organization. It does go to the net return issues, and in the case of the new rules, to the adjusted cash flow. If organizations truly find themselves in difficulty for two quarters in terms of negative cash flow, they will be summarily suspended by the director in accordance with the new rules. Staff doesn't want to bring those forward, and that would take some adjustments to the rule because the rule says staff must bring the Groups IV and V reviews forward on an annual basis.

Commissioner Forrest addressed "significant progress," in a charitable organization, means we're moving from A to B. He believed the rule addresses whether the licensee is significantly implementing their purposes—not that they're improving. He said he doesn't like the word "progress." **Mr. Berg** agreed and noted the test is actually an arithmetical test—how much money did they make? How much is going back to the charity? Commissioner Forrest said that on the other side of the coin, the first prong of being qualified is what they're doing and is this a charitable nonprofit purpose? He concluded that the word "progress" is an inappropriate term to describe what they are concerned about, which is, are they doing the job for which they originally got their qualification as a charity or nonprofit corporation? Mr. Berg affirmed this would require rule drafting and that staff would be delving into the rule. If that's the wrong term of art to describe what it is we are looking for, there is no Commission action required other than to say, you're grazing in the wrong pasture. However, staff would like to draft rules to implement what they are talking about and bring them forward through the study session. The Commissioners concurred.

RULES UP FOR FINAL ACTION

15. RAFFLE APPROVALS:

WAC 230-20-325 and WAC 230-20-335:

Amy Patjens reported these rules are up for final action. They deal with nonprofit organizations that are using discount schemes when they are selling raffle tickets, and when they are using alternative methods for their drawings. Currently, with both of these schemes, the nonprofit organization must get advanced approval from staff. Staff is proposing that if an organization has conducted an identical discount scheme or identical alternative drawing format the year before, they would not be required to come back and get approval again. This will be less cumbersome for the licensees and for staff.

Ms. Patjens noted that at the last Commission meeting, Commissioner Forrest raised questions about whether we were staying within the intent of the statute that talks about a raffle ticket being able to be purchased for up to \$25 if there is some type of a discount scheme. Staff talked to some of the folks who were around when the rules were originally passed, and found out that the feeling at the time was that we are still requiring the player to be able to buy one individual ticket. Even though the total amount paid for group tickets may exceed \$25, a player, may only want one ticket. Staff felt that was within the intent of the law. The organizations wanted to have the discount tickets because they thought they would sell more tickets if they were able to have some type of a discount scheme. Staff's main concern at the time was auditing. Staff wanted to make sure the organization had actually received all the money they were supposed to -- and there were some extra reporting requirements they must follow.

Chair Orr asked if someone is selling \$5 or \$10 tickets, and if someone sells 25 tickets, could they get a free ticket?

Ms. Patjens affirmed they couldn't do any type of free ticket or incentives to people in that way; it must truly be a discount scheme. Chair Orr verified that if someone sold 50 tickets, he or she would also have to buy their own ticket and if the organization wanted to reward the salesperson with a free ticket, they couldn't. Ms. Patjens affirmed that is addressed under Subsection 5 of WAC 230-20-325. It talks about free tickets—that they can't be awarded or given away as a prize; they can't be given for purchasing a certain number of tickets or as a reward for selling a certain number of tickets. Chair Orr asked if that was just an audit problem? Ms. Patjens believed that a lot of it is an auditing problem

because staff wanted to make sure that the organization is not getting ripped off. **Chair Orr** interjected that obviously the seller doesn't have his name on the ticket so that does become an audit issue, which he can now see.

Commissioner McLaughlin said asked if a small organization decided to have a raffle, under the law now, they have to own whatever they're raffling off, like a trip to Hawaii. **Ms. Patjens** affirmed. Commissioner McLaughlin also asked if an organization decided to sell tickets at \$10 a ticket and they thought they would do well and they didn't go into the bundling of tickets, they couldn't do that after they started the sale. Ms. Patjens affirmed and added that gets back to protecting the players. We don't want organizations to say they're going to give away a prize and not do it. Commissioner McLaughlin said she was trying to find a way for the organization (if sales didn't go well and they didn't sell very many at all), to make that proposal after the start of the sale. Ms. Patjens affirmed they couldn't make the decision to bundle tickets after the sale has commenced. With no further questions, Ms. Patjens noted that staff recommended final action.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to adopt amendments to WAC 230-20-325 and -335. *Vote taken; the motion passed with four aye votes.*

Commissioner Forrest asked if organizations would like to be able to give free tickets for selling raffle tickets. **Ms. Patjens** said it hasn't come up in their most recent discussions about this rule, and invited staff member Cindy Reed to share some information. **Ms. Reed** affirmed that when members of an organization have sold raffle tickets, the question about being able to give incentive prizes was referenced in Subsection 11. There are some restrictions and they're based specifically on the problem we ran into with some of the raffles. They offered so much incentive to the people that were selling the raffle tickets, that quite often the gross receipts were negated by the prizes given away. They would give away up to 80 to 90 percent of the gross receipts, which were then given to members as a reward for selling raffle tickets. The purpose of conducting the raffle is to raise money to go towards the organization's purposes, not simply to award prizes to members for selling. Subsection 11 actually puts a limit on the amount of a prize that can be given to a member for selling tickets -- two percent of the gross receipts.

Chair Orr said that as he reads the rule, it says individual awards may not exceed a fair market value of \$10. Hypothetically, if one had \$10 tickets and if they sold \$100 worth of tickets, wouldn't giving one away fit? **Ms. Reed** said she didn't know whether that scenario had been addressed. Chair Orr believed it warranted a debate on whether individual awards should not exceed a fair market value of \$10 and if a ticket is worth \$10, and after someone sells \$100 worth of tickets, it may very well fit in the loop to give that salesperson a free ticket. **Ms. Reed** affirmed staff could review this issue. **Mr. Ackerman** asked how this would square with Subsection 5 where it says the opportunity to participate in a raffle drawing without purchasing a ticket are not allowed for any reason including, but not limited to the following, and then Subsection C as a reward for selling raffle tickets. **Chair Orr** said his question and his petition to staff is to see if we can provide an opportunity for the folks who have a raffle have the ability reward their highest selling sales people. Ms. Reed affirmed it would take some changes to the rules because presently it is not allowed. She recalled that the primary concern with the issue of awards generally came up was in the area of youth raffles. The kids didn't want to sell raffle tickets unless they got something back. Staff found organizations were giving away 80 to 90 percent of the value of all the tickets sold being awarded to a kid who had sold the tickets. The question was, is this really the purpose of the raffle? Was it just so you could award a bike to a kid, or was it so you could put money toward the organization's goals and purposes? That's also why staff was concerned about putting a cap on awards for prizes. The only other concern is the credit -- one cannot award a gift to someone that would enable them to play a gambling activity.

Chair Orr said the Commission becomes a nebulous bureaucratic thing causing people frustration. If it's a ticket and if it's the top three salespersons that get a ticket, they are not going to erode the value because it's only a ticket and only \$10. He believed the little organizations that have raffles don't know how to approach the Commission. The usual clientele are big businesses or lobbyists. **Ms. Reed** noted that over 50 percent of the questions she receives relate to raffles, and a larger portion are considered to be an unlicensed category—those people that only conduct them twice a year and they stay under the \$5,000 limit. Their connections with the Commission are through the information available on our Website. **Commissioner Forrest** suggested staff take a look before the next meeting to see if there is any real threat to anything and to see if someone could say "if you sell 10 tickets you get a bicycle." Commissioner Forrest believed that if the only reward is a chance to participate in a raffle, he didn't quite see how it was going to detract from the organization. Ms. Reed agreed staff could explain all the rules that would be relevant.

Commissioner Ludwig asked why Subsection 5 couldn't be rewritten to say, "free tickets are not allowed for any reason except as provided in Subsection 11." **Ms. Reed** affirmed it sounded like a possible fix. Commissioner Ludwig thought that would satisfy the issue Chair Orr raised, and not impact the fundraising activity. Ms. Reed noted there were also concerns regarding what the Commission allows in reference to unlicensed raffles over which the Commission has very little regulatory oversight. Part of the debate might involve whether we want to allow an unlicensed raffle to offer this as an incentive or whether to keep it to licensed raffles that offer the activity. Ms. Reed noted that generally, staff has stayed very close to the statute on anything that is unlicensed. If an organization wishes to do some things that involve more oversight, then we require them to get a license so staff can provide the oversight and accountability to ensure that all the money collected can be tracked.

Chair Orr moved on to WAC 230-20-335. **Commissioner Ludwig** said this appears to be a housekeeping rule to accommodate or to reconcile the prior rule just adopted.

Commissioner Ludwig made a motion seconded by **Commissioner McLaughlin** to approve and adopt the amended rule under WAC 230-20-335. *Vote taken; the motion carried with four aye votes.* (Senator Winsley arrived at 10:25 a.m.)

16. RE-OPENING A HOUSEBANKED CARD ROOM AFTER CLOSURE:

WAC 230-40-801 and **WAC 230-04-207:**

Robert Berg, Deputy Director, said these rules are up for final action. The first rule is WAC 230-40-80, which deals with a card room that has been closed and wishes to reopen and defines the steps they must go through. The amended rule in the Commission packet pertains to a letter staff received from Mr. Warren Chinn of Seattle who asked some questions that led to a couple of changes. The first change pertains to procedures for interrupting operations that exceed 60 days. The question asked was what was magic about 60 days? Is it more the subject of the change versus the timing of the closure? Staff agreed and has deleted that reference. The companion to that pertains to the words in 3(b), instead of having changes that are "material" making it "as staff deems necessary," which means the agent will meet with the licensee who is about to reopen and make an assessment to what's changed and how long they've been closed.

Commissioner Forrest thought that "as staff deems necessary" is more vague and more discretionary than "material." Courts deal with "material" all the time and he didn't think staff would be unreasonable, but he didn't see how it advances the cause. Commissioner Forrest thought that "material" is subject to interpretation by whoever is doing it, but that it was a better standard and one that in the legal system uses routinely. He felt the "as staff deems necessary" is more capable of abuse, than saying something is or isn't "material." Personally, he was not in favor of that change.

Mr. Berg agreed with Commissioner Forrest's -- no "material violations" is a term of art and a legal term the Commission uses in other areas of their regulatory program. He suggested the Commission take a look at leaving the existing language in parentheses and strikeout, "as staff deems necessary." **Chair Orr** agreed.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to strike the new amendment and refer back to original language for changes that are material. **Mr. Berg** asked Commissioner Forrest if he was specifically speaking about that issue as opposed to the 60-days, which is another change. **Chair Orr** affirmed. **Senator Winsley** asked why we were deleting "the license shall be required to pay for such review and evaluation." **Mr. Berg** replied that it is his understanding that is already covered in another section of the agency's WACs which requires all licensees to pay for any special scope investigations the agency conducts. *Vote taken; the motion passed with four aye vote.*

Mr. Berg said the last suggestion submitted by Mr. Chinn was that penalties for noncompliance should be set forth. That is something staff does not do as a matter of routine in agency WACs —those are based on an analysis of the case and a review by staff attorneys as to what charges should be brought and the severity of the incident. Staff explained that in a letter to Mr. Chinn and staff would not recommend that change and it does not appear in the latest draft. **Chair Orr** called for questions. There were none.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to accept the new section in WAC 230-40-801. **Chair Orr** called for public comment about this issue.

Gary Murray recalled that the 60-day clause was addressed to eliminate any incidental emergency closures for power outages and so forth—events that weren't because of change of operations, and wouldn't require Commission approval to restart. **Mr. Berg** responded that events such as emergency closures are covered in Section 2(a). It addresses the duty of the licensee to notify the Commission if there is a closure. He believed with Commissioner Forrest's clarification on material, that would be the watchword agents would use, because material changes could certainly occur in less than 60 days, and there may be no material changes even if they're closed for 90 days. There was no further public testimony.

Vote taken; motion passed with four aye votes.

Robert Berg reported the second rule, WAC 230-04-207 would add language to require house-banked room applicants to complete the pre-operational review and evaluation (PORE) prior to conducting house-banked card games. This amendment codifies the practice currently handled by policy. Staff has received no information for or against the terms or filings with staff. **Chair Orr** called for questions. **Commissioner Ludwig** said he understood that as a general rule, an administrative agency shouldn't do by policy matters that should be taken care of by rule.

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** to adopt WAC 230-04-207. **Chair Orr** called for public testimony. There was none. *Vote taken; the motion passed with four aye votes.*

18. **LICENSING FEES:**

WAC 230-04-202; WAC 230-04-203; WAC 230-04-204; and WAC 230-08-017:

Amy Patjens noted that the fee increases are consistent with the fiscal growth factor, which is 2.79 percent, and the factor that must be used based on Initiative 601. She noted there has not been a fee increase for two years. There are two alternatives: one is a fee increase for all commercial and nonprofit licensees, and then the alternative for fee increases for commercial operators only. The majority of the funding is from commercial operators at 87 percent, and if the fee increases were not made for the nonprofit organizations, the forgone revenue would be about \$62,000 through the end of the biennium. With Initiative 601, once the agency forfeits the opportunity to raise fees in one year, the agency won't get it back in subsequent years. Next year, the Commission could not increase the fees by the last year's fiscal growth factor plus next year's fiscal growth factor. That means if the fees are not increased for the nonprofit organizations now, over the next three biennia, the foregone revenue is actually about \$227,000—just over a quarter of a million dollars. The rules also include reduced fees for the limited fundraising events which were the result of two petitions the Commissioners heard several months ago, and it also includes new fees for the electronic facsimile of cards systems. That fee is \$350. Staff recommends final action.

Ms. Patjens noted that last month there were some questions about whether staff's recommendation would be for the fee increases be across the board or whether the Commission should distinguish between the two. After some discussion, staff's recommendation is that the fee increases be implemented across the board for all organizations. For very small organizations, the fee increases are literally sometimes just a dollar or two. Staff compared the fee increases versus an organization's gross receipts, and in most cases the impact was between .3 of 1 percent or 1 percent for an increase. If the Commission choose to pass the fee increases across the board, it would be voting to approve Alternative 1 of 18(a), all of 18(b); then Alternative 1 of 18(c), and all of 18(d).

Senator Winsley addressed the 3.79 percent salary increase provided in the adopted 2001-03 Budget to Commission employees which cost \$359,000 each year. She pointed out that state employees only got that increase for one year, not two. She emphasized there is nothing in the second biennium for salary increases for state employees, and it is unlikely they will be getting a raise. **Chair Orr** asked if there were other questions, and there were none and he opened the issue for public comment.

Bob Lambert, Board Member, Brain Injury Association, said he has been talking with other nonprofit Bingo halls and they are concerned. Many of them are fighting to stay alive and to provide money to their nonprofits so they can do their job. He noted their organization paid \$11,700 in license fees this past year. He said they could use that money to support their nonprofit operations, or the community, or back to help pay their employee medical care insurance. Mr. Lambert indicated that he has been told that 10 or so Bingo halls have gone out of business. A year ago his organization was told that they were going to lose their lease on the building they were using because the landlord wanted to expand into that facility. They were faced with finding another place to run their Bingo hall because the rules prohibit them from co-locating with another Bingo hall, even though that Bingo hall or their Bingo hall was prohibited from operating

more than three days a week. In October of last year, he started looking for a hall that was in the same general area so they wouldn't lose their customers and for a hall that would have enough parking and seating to accommodate the crowd and still allow for expansion. It took almost 10 months of looking until they found a 12,000 square foot building which they operate three days a week. It cost almost \$50,000 to make the move, which is a lot of money for a nonprofit. **Mr. Lambert** affirmed that license fees are very expensive and that's an additional amount of money they could give back to their nonprofit operation. He asked how other states handle the licensing? Is it as expensive as the state of Washington? Where does all of this money go? Some organizations feel they are paying more than their fair share. He asked the Commission to carefully consider the request for an increase in licensing fees, and to look into the regulation about sharing Bingo halls.

Chair Orr affirmed we are in the process of comparing ourselves with other states throughout the nation on how they do things and who controls them. He noted that part of the responsibility goes to the Legislature because there is legislation, not administrative rules -- he reminded Mr. Lambert that the three-day rule is not the Commission's rule, it is legislation.

Commissioner Ludwig noted that over the last couple years the Commission has received mixed messages from nonprofits and charities regarding sharing facilities and the number of days per week. He did not recall whether those restrictions are legislative or by rule. Commissioner Ludwig asked when the nonprofits and charities were going to get together on these issues and ask to have authorization for more than three days a week, or for sharing a facility by those organizations wishing to share a facility? He emphasized the Commission has yet to hear a clear united voice on those two issues. **Mr. Lambert** said the nonprofit organizations have met and are in the process of trying to get their act together on this matter. It is a business issue and they need options when circumstances warrant it, but with these restrictions, they have no options.

Senator Winsley suggested that those who want some of the changes that have just been discussed should attend a meeting on Monday the 19th, (9:00 a.m.) at City Hall in Bellingham, because those are some of the issues they are going to be dealing with -- she said it won't happen unless people come and talk about and support the ideas for change.

Steve Strand, President, Washington Charitable and Civic Gaming Association, said that for the last two years, although it has not been unanimous how additional days of play are to be implemented, the WCCGA has submitted a bill to the Legislature for electronic Bingo and additional days of play. **Commissioner Ludwig** asked why not separate the bill to have a better chance to getting one of the two issues passed. He felt the organizations had all their eggs in one basket and he didn't think that was effective for the industry. He noted the Commission has routinely supported their electronic Bingo machines without any success, but, everything is packaged together--the machines, the hours of operations and sharing facilities. He thought if they would go in with separate issues and separate bills, it might be easier to get as much of it passed as possible. Mr. Strand concurred and said he appreciated Commissioner Ludwig's comments.

Mr. Strand addressed the topic of fees and noted he heard the discussion in reference to the charitable nonprofit organization fees as maintaining the revenue stream from a particular source for the agency as opposed to what is more commonly used as a fee for services. He noted the number of licenses is declining. It's often viewed as getting increases to maintain the level of income coming from that particular revenue source, versus accurately representing the cost of fees for services provided. His group is in total agreement that the fees they pay are in excess of the services they are being provided. Mr. Strand wished to keep the focus on services provided as opposed to maintaining revenue streams. The discussion has been solely to maintain revenue streams and future revenue streams. He believed the money would be better served in their communities instead of fee increases generating revenues to the state. **Commissioner McLaughlin** asked what his license fee is now and what it would be if the Commission chose Alternative #1? Mr. Strand responded that generally speaking, his Big Brothers/Big Sisters organization fees are approximately \$22,000 per year, and the fee increase would represent about \$800.

Don Kaufman, Big Brothers/Big Sisters of Spokane, thought there were a couple of issues the Commissioners needed to keep in mind as they make this decision. The RGA will be coming forward to talk about their needs, and they provided an interesting sheet in the packet that shows the minimum wage increase in the state and in an uprising marketplace and where their gross revenues have gone on a steady stream upwards. They will tell you they flattened out at this point. However, in the opposite marketplace, where licensees have lost revenues and they've experienced the same minimum wage increases of 21.6 percent (in the last four years), now they're being asked to take a fee increase of 2.79 percent. In a declining marketplace, this is devastating to an organization. He noted that in 1992, the Bingo net in this state was \$20,158,000. In June 2000, it was \$9,617,000 -- a 52 percent decline. At the same time they experienced a 21 percent

increase in labor costs. **Mr. Kaufman** thought that if there's an opportunity to do something for the nonprofits in this state, it's sitting before the Commissioners right now and he thought it was time to look at how the marketplace has treated the nonprofits and how the marketplace has treated the other licensees. If the marketplace has been good to them, give them the fee increase. If it hasn't been good to them, don't give them the fee increase. He thought it was a time for the Commission to take a stand and help the nonprofits. **Commissioner Ludwig** pointed out that the nonprofits' labor costs have gone up, but their overhead for building and facility has remained the same. Mr. Kaufman said the energy costs have risen quite a bit. Commissioner Ludwig suggested the nonprofits minimize their facility overhead by seeking to operate another day or two more a week, or by sharing the facility. They would then be splitting that overhead facility cost in half. Commissioner Ludwig noted that two years ago nobody wanted to consider that proposal. He said he is ready to try to help the nonprofits, that he likes Alternative 2 -- no fee increases for nonprofits and charities, but that it's time the nonprofit organizations and individual operators try to economize on their expense. He said the Commission can help them a lot, but the organizations can help themselves even more. Mr. Kaufman agreed, but wanted to add that in a marketplace that's saturated, they certainly needed the freeze on licenses the nonprofits have suggested. They need the Commission to support freezing the licensees, and then they can consolidate the marketplace in some fashion.

Chair Orr said he understands the concern and understands that the state of Washington repeatedly passes initiatives that curtail agencies from collecting fees and taxes. Therefore, it becomes very difficult to run a government when they are controlled by those kinds of requests. If the Commission chooses not to raise a fee and then finds out that it costs them money, they can't pick up what they lost next year--it's not a simple solution, it's very complex. **Commissioner McLaughlin** asked why the Commission couldn't raise the nonprofits for a lower amount than initially planned.

Director Day said the fee increase is 2.79 percent, and of course the Commission can make decisions as they wish; however, this is a difficult decision—they want to keep the charities/nonprofits doing the good work they do, but on the other hand, we have a responsibility to make sure that the agency maintains the bottom line and is able to do the regulatory work that it's assigned to do. Director Day stated that he could not advise the Commission that this is good fiscal policy because the figures speak for themselves. If an across-the-board fee increase were to take place, it would be worth about \$305,000 a year—just the added compensation for the normal salary increase that they talked about was \$395,000 a year. He cautioned that not unlike other businesses, we can't have our costs go up and implement lower level fee increases and expect over time to be able to balance the books. Director Day affirmed that everyone would like to not increase fees, and the question has been asked if it is going to bankrupt the Commission? No, it will not over the short term; however, is it sound fiscal policy for the long term? This would be a second decision not to increase fees and Director Day indicated that he could not tell the Commissioners that it is sound fiscal policy, but he also acknowledged the difficult nature of the decision. **Commissioner McLaughlin** asked if it was possible to make the fee increase for the charities less, thereby having less of an impact on the agency and on the charities. **Chair Orr** affirmed and noted that even with the increases proposed, we would not be keeping up with the cost of running the business of the agency.

Senator Winsley asked if the Gambling Commission is included in the Governor's 15 percent agency cut. **Director Day** said the Commission is not directly included because we are a non-appropriated agency; however, we are doing our best to observe the consideration. Senator Winsley asked if the Commission would be honoring the hiring freeze. Director Day responded that we are not directly required to do that at this time. He affirmed that it is a difficult position because the agency does want to show respect for the Governor and the position that the rest of the agencies are in, and we recognize the difficulty with the overall state budget, but on the other hand, we have the ongoing responsibility to continue to regulate and enforce the laws in Washington and to provide the service the licensee's have paid for -- it's a double-edge sword. Senator Winsley responded that there are a lot of agencies in the same situation because they generate their own funds, and she believed the Legislature would be taking a hard look at this issue. Senator Winsley said she is still troubled with the \$359,000 a year salary figure. Director Day explained the report intended to say the \$359,000 authorized is a cost increase that's added onto the base—therefore it's an ongoing cost. Senator Winsley said she is concerned, because as a member of the Senate Ways and Means Committee, she didn't like to see agencies projecting five years out because there are too many unknowns.

Commissioner Forrest made a motion seconded by **Commissioner McLaughlin** to adopt Alternative #2 under both the first and the third rule. **Commissioner Forrest** said that in any event, this is a band-aid for charitable nonprofits. If the considerations emphasized by the director are true, it does have a long-term effect. He advised that he has agonized about this, and acknowledged that the Commission has been very concerned about the drop in revenue of the charitable/nonprofit organizations that perform such a significant public service. While this decision may have some

adverse fiscal aspects on the agency, he believed it was time to put "our money where our mouth is." **Commissioner Forrest** noted that we're always asking why the Legislature doesn't do more for the nonprofits--and while he believed they should do more for the nonprofits, he noted that we couldn't control the Legislature. Commissioner Forrest explained that he could at least urge the Commission to give what is a very modest but nonetheless helpful bit of relief in a tough market for the charitable nonprofit corporations. **Commissioner Ludwig** agreed with Commissioner Forrest and also recognized the good work the charities and nonprofits provide. This is the non-tax dollars at work and the charities and nonprofits need help. He emphasized that they've got to get together and get what they can from the Legislature, or to get some good advice about how to get their facilities better utilized—whether it's more days a week or whether it's sharing, which is separate and apart from whether they ever get an electronic Bingo system. Commissioner Ludwig affirmed the Commission is sympathetic and will remain sympathetic to them, but they've got to do their own share to cut their costs. *Vote taken; the motion passed three ayes to one nay vote cast by Chair Orr.*

Chair Orr recessed the meeting at 11:20 a.m. and reconvened the meeting at 11:40 a.m.

RULES UP FOR DISCUSSION AND POSSIBLE FILING

19. BINGO:

WAC 230-20-244; WAC 230-20-246; and WAC 230-20-249:

Amy Patjens noted that WAC 230-20-244 deals with electronic Bingo card daubers, which have been allowed since about 1994. By rule, the electronic daubers can hold up to 66 Bingo cards. The rule change reflects that a Bingo player can only play one of the dauber machines plus as many disposable or regular hard cards as he or she wants. The reasoning is that players should be competing equally with other players and if a person was operating many of the daubers, they could potentially be playing with hundreds of cards. This raises the question as to whether they are truly operating equally with others. She explained that while we haven't had problems in this area, the rule change is a proactive rule change. **Commissioner McLaughlin** asked why we were trying to fix something that isn't broken. Ms. Patjens responded that sometimes it's a struggle, whether to be proactive with rule changes to clear up things that aren't clear, or to wait until there is a problem and then fix them. Commissioner McLaughlin said she was inclined to choose the latter, but wanted to hear public comment first.

Commissioner Ludwig confirmed this prevents a player from utilizing numerous electronic Bingo card daubers at one time and possibly having a winning advantage over other players. He said this was no different than a raffle. If someone buys a hundred raffle tickets, their chances of winning are a lot better than someone with one ticket-- that you pay for your chances. **Ms. Patjens** agreed. Commissioner Ludwig said there are a lot of situations where one investor in a gambling operation has a chance to win a lot more money than the small investor. He indicated that he was leaning in the same direction as Commissioner McLaughlin.

Ms. Patjens reported that Item B deals with how winning Bingo cards are verified. Right now, a Bingo employee and a neutral player must verify winning cards. The proposed amendment would allow an alternative method when a player has a winning card using the electronic dauber machine. It would allow a Bingo employee to verify the winner instead of also using the neutral player. After the Bingo employee verifies the winning card, the employee must broadcast the winning card on a video screen for all players to see. The neutral player verification function still exists. The industry was already doing this, which makes the rule consistent with the practice.

Ms. Patjens noted the third rule deals with "three-number speed Bingo." This change was discussed as part of the net return task force last year. The rule change does two things: it increases the maximum prize for a three-number speed Bingo card from \$2 to \$7 and it also makes it clear that with these particular games, they can accrue a progressive jackpot. The person would buy their regular Bingo card and they would also pay an ante. The ante would be the part that would accrue the jackpot. This was added because the licensees wanted to confirm they could do progressive jackpots with this three-number speed Bingo. Staff recommends filing the rule for further discussion. **Chair Orr** called for comments from Commission and input from public.

Commissioner Forrest advised that he couldn't see a harm in filing this rule if staff thinks it's worthwhile and since it's a product of discussions with the industry.

Commissioner Forrest made a motion seconded Commissioner Ludwig to file WAC 230-20-244, -246 and -249. Vote taken; the motion passed with four aye votes.

20. PULL-TABS:

WAC 230-30-033; WAC 230-30-045; and WAC 230-30-072:

Amy Patjens reported three rules are up for discussion and possible filing. WAC 230-30-033 deals with event pull-tabs which are pull-tab games that typically have a very small number of tickets that sell out quickly. They are only allowed for charities and are typically tied to a Bingo game. The event deals with the drawing that occurs once the game is played out. The nonprofit operators would like to have these types of tickets sold by their floor workers rather than requiring the player to get up and go to the pull-tab area. They will have to keep detailed accounting records to keep track of the pull-tabs.

The second rule, WAC 230-30-045 deals with carry-over jackpots that the nonprofit or commercial operators can use. With a carryover jackpot, as the name implies, there is an opportunity to win a jackpot. The reason for this rule change came about because staff had some questions about what happens when a licensee closes or sells its business. Because an operator can pull a pull-tab game before all of the tickets have been won, staff wanted to make sure that if the operator pulls the game, the carryover jackpot that had been advertised would move over to the new game. There are basically four ways to disburse the funds: transferring the jackpot to the new licensee, typically being the buyer, assuming that they have a pull-tab license, awarding it to a player by playing the game out before they close the business, distributing the funds to the Washington State Council on Problem Gambling, or distributing it to a charity or a nonprofit organization licensed by the Commission.

The third rule, WAC 230-30-072 deals with retention requirements. Commercial pull-tab operators have to keep pull-tab games that have been pulled from play for at least two months after the game is pulled. They are also required to keep the winning pull-tabs which were \$20 or more in prizes. This would require that they also keep the flare. Staff needs that when they are doing their auditing process because if the agent must be able to compare the pull-tab back to the flare and verify that prizes were marked off. This suggestion came from staff. Staff recommends filing all three rules for further discussion. **Chair Orr** called for public and Commission comments/testimony. There was none.

Commissioner Forrest made a motion seconded by Commissioner Ludwig to file WAC 230-30-033, -045, -072 for further discussion. Vote taken; the motion passed with four aye votes.

21. PETITION FOR RULE CHANGE - POSSESSING A CRAPS TABLE FOR THE PURPOSE OF TEACHING

THE PUBLIC HOW O PLAY CRAPS:

Amy Patjens reported that any member of the public may submit a petition for a rule change. William Kirtland who owns The Player's Edge located in Tacoma submitted this petition. This is a store that sells gambling-related books, videos, and accessories. Mr. Kirtland wants to teach the public how to play the game of Craps. He feels this is a complicated game to learn and it is a game in which people typically lose quite a bit of money before they learn how to play it. While he's teaching the game, no true gambling would occur. There would be no cost to enter and no prizes paid. This has been a new issue for staff and Mr. Kirtland had several questions--at times staff did not always have quick answers for him because it was a new situation. Mr. Kirtland eventually purchased a Craps table over the Internet, which looked like a professional Craps table. He was advised in a letter from Director Day that he could not possess professional gambling equipment and he was also advised that if he wanted to pursue this concept, he could submit a petition for rule change, which is what he's done. Mr. Kirtland has asked that a new section be added to the gambling service supplier definition to include providing educational and/or instructional classes or seminars pertaining to authorized gambling activities to the public.

Staff evaluated this with an eye on the regulatory and policy implications. A memo is included in the Commissioner's packet and it was also sent to Mr. Kirtland. For several reasons, staff does not support Mr. Kirtland's proposal. This would be allowing someone to possess gambling equipment which is not to one specific location. Currently, staff has a very good idea of exactly where the particular equipment is located for licensees that can possess gambling equipment. Mr. Kirtland's proposal is simply to allow him to do this and the agency would not have the same amount of control over the equipment possessed. This raises regulatory concerns. Staff may need to look at requiring identification stamps for

the equipment. From a policy perspective, there could be a perception that the Commission is encouraging gambling by authorizing this activity. **Ms. Patjens** pointed out the flip side could be argued that the Commission is encouraging patrons who gamble to at least understand the game if this rule was passed. As with all petitions, there are three options: the petition can be filed for further discussion, it can be denied with an explanation, or an alternative may be proposed. Mr. Kirtland was notified of the date, time and place of this meeting. Ms. Patjens pointed out that even if the petition were denied, Mr. Kirtland would still be able to use unprofessional homemade types of Craps tables to teach people how to play the game. She also emphasized that by denying the petition, the Commission would not necessarily be telling him that he couldn't do this.

Commissioner McLaughlin advised that when she read the material she wondered if this were the proper thing for the Commission to do. On the other hand, she has been in several enhanced card rooms where they had a table or two for teaching purposes, and she asked what the difference would be. **Ms. Patjens** replied that this would be changing where the activity is occurring. Right now it's typically occurring in a licensed establishment, which is a place the Commission licenses, regulates, and knows exactly how many tables are on site. The rule change adds the game of Craps (which is a game that's only played in tribal casinos) and would allow the activity to occur in a different type of a location.

Commissioner Forrest said that as a practical matter, if the Commission adopts a rule (not necessarily in its current form), it could meet all staff's concerns—it could be tied to a card room and he couldn't see that as a threat to the public good. He noted that the Commission spends its time trying to make sure that gambling is honest and he didn't think educating the public to the odds was necessarily bad. Rather than just having a tolerance policy, he would rather have a rule on how many people are going to pay money to learn how to play Craps, whether this is economically viable. It was his inclination to file the rule, see if there are any other comments, and staff could certainly draft an alternative that would ensure that it is known where the activity occurs, and, as staff suggests, to have something so staff could go out and verify from time to time, if necessary, that the equipment and activity is legal.

Commissioner Forrest made a motion to file the rule and see if there are any real objections to it. **Chair Orr** called for a second. **Commissioner Ludwig** stated that perception, once again, becomes in the public mind a reality. For the state to authorize teaching people how to gamble didn't sound very good. **Commissioner Ludwig** seconded the motion because he thought the petitioner is entitled to present his case and have it discussed. He was not sure he liked the idea of people teaching others to gamble. **Chair Orr** called for public testimony.

Mr. Kirtland, owner, The Players Edge, expressed appreciation for the opportunity to address the Commission. He reported that he had analyzed staff's report. He advised that he approached the Commission last March when his business plan was in an embryonic state. He approached the Tacoma field office to find out what he could do and what he was prohibited from doing. Up until a particular point, the officials he spoke to all suggested that if he obtained a gambling service supplier license, he could indeed go ahead and do what his business plan called for in order to teach. Mr. Kirtland advised that when he was ready to submit his application, he was told that the attorney general's office had determined that the definitions in the gambling service supplier license did not encompass the idea of teaching the public how to effectively play casino games. He asked what his options were and he was advised that he could either open a dealer's school (which he is not interested in doing), or he could file a petition with the Commission.

Mr. Kirtland said he agreed with Commissioner Forrest, and he didn't understand why there would be a difference in how his equipment would have to be tracked any differently than any other licensee. He pointed out that he has a specific location, a storefront, open seven days a week. He also pointed out that he has invited Gambling Commission special agents to visit his store, and to his knowledge they have not. Mr. Kirtland believed this is an educational issue and he indicated there are a lot of people interested in learning how to play. He reported that he's had good reports from his students as to their success at the tables. He pointed out that in the seven-hour course, he tries to teach people how to protect themselves through money management, and having the discipline to leave if they're starting to lose. He doesn't just go through the mechanics of the game, but also how to deal with everything going on in a casino environment. Addressing the perception issue, Mr. Kirtland thought that whether the state is comfortable with the perception or not, the public believes that the state authorizes gambling, and he believed it would shed a good light on the state and the Commission if they were to pass the proposed rule.

Commissioner McLaughlin said she would vote to file the rule, but right now, it didn't seem like the right thing to do. She concurred the Commission should hear the issue.

Chris Brannon advised that he was one of Mr. Kirtland's former students. He reported that Mr. Kirtland talked about the layout, about the odds, but more than that, he showed that he wanted to help the public and make sure that people knew what they're getting into when they go into a casino. He goes beyond the basic layout and the odds. The most important things Mr. Kirtland talks about are money management and discipline. Mr. Brannon affirmed the casinos do have seminars and instruction, but they just talk about the odds. Mr. Brannon noted that according to the present statute, it's legal to possess equipment if you're teaching people how to deal—he asked why aren't they able to teach people how to play? Mr. Kirtland has said that he would like to be licensed, and staff could stamp the equipment so it could be tracked and checked. Mr. Brannon addressed how the public would perceive this if the rule change was passed and asked which headline would have a worse public perception -- the state allowing people to be educated gambling, or the state raising betting limits once again? There were no other comments.

Vote taken; the motion passed with four aye votes.

22. PETITION FOR RULE CHANGE - RAISING BETTING LIMITS FOR CARD GAMES:

Amy Patjens reported two petitions that have been filed by the Recreational Gaming Association. The original petition was withdrawn at the September meeting, but when the RGA sent in the new proposal they also asked that the Commission consider the original proposal. The original petition requested that the betting limits be increased from \$100 to \$500, which is what the limits are in the tribal casinos after six months. The alternative proposed three more options. One would be to increase to the \$500 betting limits for up to five tables and the rest of the tables would be at a \$300 limit. The second option was going to \$250 after six months and then increasing to \$500. The third option was having up to two tables increase to the \$500 limit and rest at \$300. Staff has looked at the regulatory and policy implications which are in the memorandum from Director Day. One of the concerns raised relates to the financial health of house-banked card rooms. The agency's Financial Investigations Unit and Financial Reporting Section did some analysis and found that most house-banked card rooms don't make money when they are at the Phase I limits (\$25), but perform much better at the \$100 limits. Of the 13 house-banked card rooms that reported a negative net income from their card room, most were in their Phase I limits during some portion of the year. The analysis also revealed that 33 of the house-banked card rooms reported a total gambling net income that exceeded \$500,000.

Ms. Patjens reported that staff feels that options #1 and #3 pose some regulatory concerns when different tables can have different betting limits within the facility. This could require additional regulation. She addressed policy considerations: increasing the betting limits could be considered an expansion of gambling by some, and increasing the betting limits for one group may increase the pressure to raise betting limits or make some other changes by other groups. This could also impact the nonprofit organizations that are also trying to raise funds. Ms. Patjens advised there are the three options: filing the petition for further discussion, denying it with an explanation, or proposing an alternative. She affirmed that whether or not to increase the betting limit is a policy call.

Bob Tull, Attorney for the petitioner, reported that about 10 years ago, the first of the tribal casinos opened, and since then a lot has changed. A lot of concerns that many people had at the beginning of that process turned out to be either manageable or unimportant. The result has been that the tribes have had generally substantial success and it has not transformed in a negative for the communities where they operate. It was some of that track record that prompted the Legislature to allow house-banked card rooms in 1997. Almost four years ago, the first house-banked card room license was approved. Since then all sorts of interesting things have happened and a lot of local concerns rose and fell. Four years into house-banked card rooms brings us to an interesting stage and the financial analysis tells part of the story. The RGA, in due course, would like to explain more of the number crunching data that is important. They want the Commission to understand that there are no policy problems that would be associated with increasing betting limits in house-banked card rooms. Mr. Tull emphasized that it is always important to realize that these are limitations on the player to bet and the house doesn't have to allow the full limits. Mr. Tull indicated that a fault he found in the analysis done by the staff is that they don't raise the policy question of what's best for players. The RGA will be addressing that to some extent.

Assuming that the Commission will allow the petition to go forward in the administrative rule making process, the RGA plans to address all of the issues. They respect the Commission's long tradition of giving people a chance to bring their issues forward, have it staffed, go through public testimony, and then making their decision.

Mr. Tull explained the RGA would not parade witnesses in front of the Commission today; however, they do intend to conduct very thorough presentations with the Commission's permission commencing at the January meeting if the rule is filed today. They plan to let staff know which topics they propose to cover each of those months so the time will be manageable and to allow staff to be fully prepared. The RGA believes there are important things happening in terms of the economic climate facing card rooms, and they believe there are ways to address any of the regulatory concerns that come up. Mr. Tull affirmed the RGA is looking forward to the opportunity and they ask that the Commission simply vote to file these series of petitions for consideration. They recognize that filing the petition is not a decision by the Commission as to outcome-- but rather a process of having public debate on issues that may have public import and to allow industry and staff debate on issues that are operational. The Commission will ultimately decide what its members believe to be the best decision for the people, for the industry, and for the agency.

Commissioner Ludwig addressed a comment in the original petition or application and referenced the statement that the rule needs to be changed to allow card rooms to remain financially viable and to compete with the tribal casinos. He asked where the concept that they were to compete with tribal casinos originated. **Mr. Tull** responded that he thought it was a fundamental business issue facing anyone in business on either side of that divide. The issue is much more important for some licensees than it is for others and depends on proximity. Some licensees don't have the significant geographic competition; others do. This is not a change or a transformation of how the industry will operate, it would be useful to some licensees in a significant way and to others in a less significant way, and to still others it will be an option they don't elect. The RGA in future presentation would try to give the Commission a fuller appreciation of how that might affect the industry -- some operators are competing with tribal operations and therefore they would like to be able to give a player a choice to stay in their establishment or continue on someplace else.

Commissioner Ludwig verified the only way they can discuss that is if they elect to file it today. **Commissioner McLaughlin** had no additional questions. **Chair Orr** called for other public testimony and there was none.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to file the petition. **Commissioner Forrest** said he was skeptical that they need any change, but that it's a significant part of the industry and he believed they should have a chance to present their case. Anybody who feels to the contrary may also present their case and the Commission can ultimately make a final decision. **Commissioner Ludwig** said that while he didn't view Commissioner Forrest's motion as being at this time supportive of the petition, he believed that in fairness to the petitioners, the Commission should file the rule and give the petitioners a chance to make their case.

Randy Kerns, Security Chief for the Washington State Lottery, advised that he was attending on behalf of Acting Executive Director Robert C. Benson. He explained the Lottery was concerned over the magnitude of the increase in the proposal from the RGA because there is only a finite number of gambling dollars available which everyone is actively competing for -- and that raises concerns for the Lottery because of their commitment to raise funds for education. **Commissioner Ludwig** verified the Lottery's concern is based strictly on a competitive interest. Mr. Kerns affirmed.

Chair Orr called for any other public testimony and there was none. *Vote taken; the motion passed with four aye votes.*

23. Other Business/General Discussion/ Comments from the Public:

Commissioner Forrest announced his resignation and that this would be his last meeting as a member of the Gambling Commission. He stated this is a voluntary resignation effective the end of December for a number of personal reasons among which is that he is not going to be available for the next six months. He emphasized that it has been a real pleasure to serve and he expressed his appreciation to the Governor for giving him this opportunity. He commented about the director, the staff and the industry.

Starting with the industry, Commissioner Forrest reflected that when he became a member, he was a little worried that the Gambling Commission, like so many commissions, particularly on the national scene, would start out as a regulatory body and wind up being an advocate for the people they are regulating. He said he was happy to discover that was not the case. He thought the collaborative way of developing rules was a very healthy practice—it doesn't mean that the Commission is a captive of the industry, but it does mean that when the Commission finally adopts rules, they know everything possible that might be objected to, and when they get a rule that can work and may not be totally what the

industry would like, they depend on voluntary cooperation and he thought that experience had been very gratifying.

Commissioner Forrest emphasized that the Commission has an excellent staff. They have responded to requests for information, and when they present things, he has found that they are well informed and genuinely have the public interest at heart and want to protect the public interest and advance it insofar as the Commission can. He advised that he was very happy to have had meetings with the new executive director, and he felt that he has inherited a fine group of people. Commissioner Forrest was confident that the director would give staff leadership in dealing with all the problems and new issues that are going to come forward. He noted the best thing about his colleagues on the Commission has been that they can disagree, as they often have, and have always stayed friendly. It's been a respectful relationship and each one of the commissioners, whether they are in the majority or the minority, has been guided solely by what each of them thinks is in the best interest of the state of Washington.

Commissioner Forrest said it has been a great pleasure and he wished Commissioner Parker was present. He hoped the director and staff would convey his compliments to those members of the staff who aren't here. It's been a pleasure. Although it's early, he wished everyone a Merry Christmas and a very prosperous new scandal-free 2002.

Commissioner McLaughlin was stunned and said Commissioner Forrest didn't give her an opportunity to try to talk him out of it. Commissioner McLaughlin said she hoped this wasn't the last time the Commission would see him and she wished him the very, very best. **Commissioner Ludwig** echoed Commissioner McLaughlin's comments.

Gary Murray, Vice President, Recreational Gaming Association, announced that the RGA was sorry to see Commissioner Forrest go—his opinions on issues have always been well thought out and he noted that Commissioner Forrest seemed genuinely interested in the issues and concerned about the welfare of the state. The RGA appreciated all the work he has done and they will miss him.

Rick Newgaard, Seattle Junior Hockey, on behalf of the WCCGA also said their organization will miss Judge Forrest. He thanked Commissioner Forrest for everything that he has done—the guidance and the advice and he hoped he enjoys wherever he is heading to. He thanked Commissioner Forrest for all his help and his dedication to the charitable nonprofits.

Bob Tull, self appointed Washington Co-Chair of the Association of Former Gambling Commission Commissioners, welcomed Commissioner Forrest to the ranks. On a more serious note, he stated that it was a distinct enhancement for this Commission to have Commissioner Forrest sit during these several years. It was an enhancement for the state of Washington and the people of the state to have him sit as a member of the Court of Appeals for many years. He hoped Commissioner Forrest's public service would not end with this evolution and that Commissioner Forrest would find other ways to keep contributing.

Chair Orr commented that he has been delighted over the last couple of years to be able to listen and watch Commissioner Forrest wordsmith issues with an ability that he envies. Chair Orr emphasized that he and the Commission would miss Commissioner Forrest greatly. **Director Day** said that he knows from his personal experience, as short as it's been, and he knows from all of staff's discussions with him, that there's a great deal of respect for Commissioner Forrest and his service with the Commission. He affirmed that everyone would definitely miss Commissioner Forrest and wished him their best. Commissioner Forrest thanked everyone for their comments and wished the Commission and the Industry good luck.

24. Adjournment:

With no further business, **Chair Orr** adjourned the meeting at 12:30 p.m. and announced the next meeting would take place in Seattle on Thursday, January 10th and Friday, January 11th. (Please note we are back to Thursday and Friday meeting dates) He wished everyone a Happy Holiday!

Minutes submitted to the Commission for approval by:

Shirley Corbett
Executive Assistant